

Naval Air Station Key West

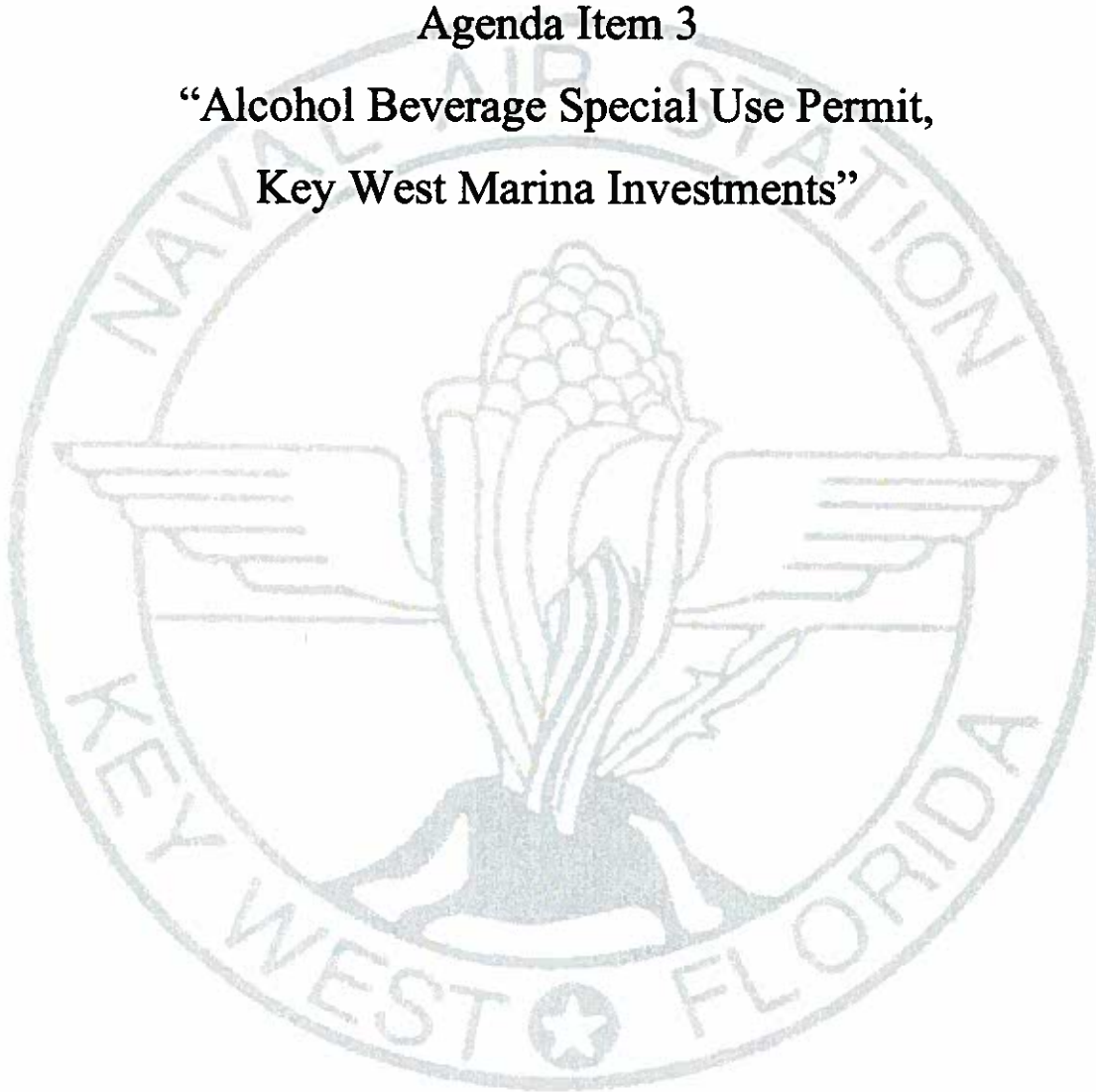
Comments

Monroe County Planning Commission

May 6, 2008 Meeting

Agenda Item 3

**“Alcohol Beverage Special Use Permit,
Key West Marina Investments”**



Item 3. Alcoholic Beverage Special Use Permit Section 19-218

Key West Marina Investments, LLC (aka KW Harbor Yacht Club), 6000 Peninsula Avenue, Stock Island, Mile Marker 5: A request for approval of a 4-COP Alcoholic Beverage Special Use Permit in order to sell beer, wine and liquor on premises and beer, wine and liquor package sales. The subject parcels are legally described as lots 5, 6 and 7, Square 61, Maloney Subdivision, Monroe County, Florida, having Real Estate Numbers 00127470.000000; 00127480.000000 and 00127480.000100.

Section 19-218 of the Monroe County Florida Code of Ordinances.

(a) *Purpose and Intent:* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of Monroe County by establishing an alcoholic beverage use permit procedure and providing criteria to be utilized to assure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under said section.

Review criteria cited by Section 19-218 of the Monroe County Florida Code of Ordinances.

(e) *Criteria:* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:

- (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within five hundred (500) feet of the premises. For the purposes of this section, "premises" shall mean the entire project site of a shopping center.
- (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties will be soundproofed. In the event music and entertainment is permitted, the premises shall be air conditioned.
- (3) Access, traffic generation, road capacities, and parking requirements.
- (4) Demands upon utilities, community facilities and public services.
- (5) Compliance with the county's restrictions or requirements and any valid regulations.

Section 9.5-4

(A-2) *Accessory uses or accessory structures* means a use or structure that is subordinate to and serves a principal use or structure; is subordinate in area, extent and purpose to the principal use or structure served; contributes to the comfort, convenience or necessity of

occupants of the principal use or structure served; and is located on the same lot or on contiguous lots under the same ownership and in the same land use district as the principal use or structure. Accessory uses include the utilization of yards for home gardens provided that the produce of the garden is for noncommercial purpose; however, in no event shall an accessory use or structure be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located, and in no event shall an accessory use or structure be established prior to the principal use to which it is accessory. Accessory uses shall not include guest units or any other potentially habitable structure. Habitable structures are considered to be dwelling units as defined below in this section.

I am Clarence Feagin, representing Naval Air Station (NAS) Key West. I will be giving NAS Key West Executive Director, Ron Demes' presentation today as he is unable to attend personally as the military ex-officio member of the Monroe County Planning Commission representing the military's interests in Monroe County. I am here today to comment on this Item which entails the review of an alcoholic beverage special use permit for the property located at 6000 Peninsula Avenue on Stock Island.

Our primary interest with this development is one of compatible development in the NAS Key West Air Installations Compatible use Zones, also known as AICUZ. The development known as Key West Yacht Harbor was approved in March 2007 by Planning Commission Resolution 011-07 and appears to have included a "clubhouse" which was designed to serve, in part, as a restaurant/lounge. On April 29, 2008, NAS KW staff requested a copy of the development 2007 approval but has not received the information to date. The staff report indicates that the "clubhouse containing dining facilities, a bar and other accessory amenities for members of the marina" were part of the original approval. According to Monroe County Code section 9.5-4 (A-2) *Accessory Uses or Accessory Structures*, an accessory use or structure cannot be established or constructed prior to the construction or establishment of the principal use. Based on the photographs included in the application for this item, the principal use and structure have not been constructed nor established. It would appear that the application and its approval are premature and not in compliance with the LDRs.

The applicant's submittal included the names and addresses to the property owners within 500 feet as required by code. I would like to note there was a mailing label provided for the United States of America without an address. We do not know who received notice for the US government and it does not appear to have been provided to NAS Key West. We request that NAS Key West be an addressee for such matters in the future.

We believe the proposed alcoholic beverage approval as presented is not compatible with adjacent land uses. NAS KW is an adjoining or surrounding land use. The proposed use is not compatible with NAS KW due to its location within the 2007 AICUZ Update footprint and potentially due to outdoor lighting.

Outdoor lighting presents a potential hazard for night vision training exercises which occur at NAS KW. The staff report states "Staff shall require that lighting on the permitted premises shall be shuttered and shielded from surrounding properties; construction of such permitted properties will be soundproofed; and in the event of music and entertainments is permitted, the premises shall be air conditioned." There were no site plans or other drawings provided to show the location of the "clubhouse" on the property. The application does not indicate the location of lighting or if shuttering or shielding is to be provided. Additionally, the recommendation does not include these requirements as a condition of approval. It is unclear whether or not shuttering and shielding of light sources and soundproofing are a part of the staff's recommendation to the Planning Commission.

The "clubhouse" is located in the 75 – 79 DNL of the 2007 AICUZ Update. Table 6-2, Line 58, page 6-6 of the 2007 AICUZ Study indicates that eating and drinking establishments in the 75 - 79 DNL should be should attenuated to provide a Noise Reduction Level (NRL) 30 dB. Note 1 (d), page 6-7 of the 2007 AICUZ Study states: "NRL criteria will not eliminate outdoor noise problems." We are unable to determine from the application if there will be food and beverage service outdoors. If so, any soundproofing provided will not be effective.

We recognize that Monroe County has not amended its Land Development Regulations (LDRs) to implement the recommendations of the 2007 AICUZ Update Study. However, it should be noted that non-action on the part of Monroe County does not mean the noise does not exist and that the patrons of this property will not be affected by high noise levels.

I would like to note that in recent years, the Florida Legislature adopted statutes with the intent:

- to protect the military installations in the State from incompatible development;
- to protect the public investment in military installations;
- to ensure the military installations are able to carrying out their operations and missions; and
- to ensure the economic vitality of the community is not adversely affected by a reduction in a military installation's operations and sustainability due to encroachment of incompatible development.

The statute also requires local governments with military installations to update or amend their comprehensive plan to include criteria and address compatibility of adjacent or closely proximate lands with existing military installations in their future land use element by June 30, 2006. The County has not adopted the required plan amendments.

The military makes a substantial contribution to Monroe County's economy. Any significant encroachment onto military operations may have the impact of reducing mission capability and sustainability, therefore negatively impacting the local economy. We have attached a brief synopsis of typical encroachment challenges that negatively impact military operations.

Thank you for the opportunity to comment and we request you give our comments serious consideration to mitigate potential negative impacts to our military operations. We hope the Planning Commission understands the vital national security role NAS Key West plays and how current encroachment challenges jeopardize the ability to meet mission requirements.

As we have stated at previous meetings, NAS KW would like to work cooperatively with Monroe County, its' staff and the development community as early in the review process as possible.

Thank you.

ENCROACHMENT CHALLENGES

The types of encroachment sources, described and defined below are drawn from various studies and reports of Navy and non-Navy actions that have occurred which have had an impact on training and test activities. Although not all encompassing, these potential sources of encroachment need to be examined to determine if they exist at an installation, range, military training routes (MTR), special use airspace (SUA) or operation areas (OPAREA). Once a potential challenge is identified, it should be analyzed to determine the potential impacts and constraints imposed.

Urban Development (population growth) – As communities grow toward the boundaries of installations, ranges, OPAREAs, and beneath MTRs and SUAs, land use development could become incompatible with the Navy's mission. Incompatible development can seriously compromise the quality of the Navy's training and test mission requirements. Urban development may not surmount to an immediate threat, but continued incompatible development could present a long-range threat to the mission. Urban development may also damage habitat needed for wildlife to survive, making the installation or range the only available habitat in the area.

Airborne noise - The central issue of airborne noise is the impact, or perceived impact, on people, animals (both wild and domestic), structures, and land use.

Competition for air space, land, and sea space - The Navy owns, controls, or uses resources, that need to be available to accomplish testing and training missions. These resources must be of sufficient size and quality to provide effective training and testing. Public pressure to share or relinquish some of these resources may inhibit the Navy from accomplishing its training and test objectives, or inhibit anti-terrorism/force protection programs.

Competition for scarce resources (oil, gas, minerals, potable and irrigated water, and ocean access) - Community pressure to gain access to valuable resources located on land or sea that Navy owns or controls may affect Navy's ability to use this land or water for training or test objectives.

Threatened and Endangered Species – Restrictions for the purpose of protecting threatened or endangered species can reduce the value of an installation, range, or OPAREA for testing and training by limiting the types of permissible activities in terms of composition, magnitude, or timing.

Maritime issues (Marine Mammals, Endangered Species, Fish Habitats, Coral Reefs, Coastal Zones, Sanctuaries, and other marine protected areas) -- Regulatory or permit requirements protecting ocean resources cumulatively affects the Navy's ability to conduct training exercises or testing in the marine environment.

Ordnance - Unexploded Ordnance (UXO)/Munitions -- Application of various environmental laws to munitions training, demolition, disposal, or testing activities could have severe and adverse impacts on readiness.

Safety Arcs and footprints (Explosive Safety Quantity Distance (ESQD) Arcs, Surface Danger Zones, Weapons Safety Footprint Areas) - Land adjacent to installations and range safety zones, including land within the installation or range, may not be suitable for certain types of land use or economic development purposes.

Frequency Spectrum - The competition for available frequency spectrum may lead to a reduction in available spectrum for training and developmental/operational testing activities. The lack of spectrum may decrease the effectiveness of exercises by restricting the number of war-fighting systems that can participate. As the potential for residential and commercial encroachment increases, so does the risk of increased RF emitters and receivers, which could result in Electromagnetic Interference (EMI) problems between Navy systems and public or commercial systems.

Air Quality - Impacts to training and test missions in non-attainment areas, and conformance with individual State Implementation Plans (SIPS), may restrict existing mission requirements or preclude execution of new missions, as well as deployment and use of new weapon platforms.

Water Quality - Discharge permit requirements and timelines and/or prohibited or restricted access to wetlands and/or their buffer zones can restrict existing mission training, preclude or restrict integration of new technology/weapons systems into existing missions and training or preclude future growth and execution of new missions in amphibious, riverine, estuarine and other salt and fresh water related missions.

Interpretation of Historical/Environmental regulations - Regulatory or permit requirements may affect training and testing activities. Other non-Navy actions may affect Navy's current regulatory or permit requirements under these regulations.

Interagency Coordination (e.g., Forest Service, Bureau of Land Management (BLM), Bureau of Reclamation (BOR), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), and State equivalents) - Navy often uses land controlled by another Federal or State agency. The types of allowable uses and restrictions are often the result of negotiations between the parties or subject to the other Federal agency's policies and regulations. These restrictive uses can limit training and testing activities.

Legislative initiatives that restrict training or testing activities - Congress may enact legislation that directly or indirectly limits the Navy's flexibility to conduct training or testing activities.